

**READINGTON TOWNSHIP PLANNING BOARD MINUTES
VIRTUAL REGULAR MEETING
March 14, 2022**

The Meeting was called to order by Chair Monaco at 7:00 p.m. stating that the requirements of the Open Public Meetings Act have been met and that this meeting had been duly advertised.

THIS MEETING WILL BE CONDUCTED VIRTUALLY FOR ALL BOARD MEMBERS, BOARD PROFESSIONALS, APPLICANT AND APPLICANT'S TEAM, ANY INTERESTED PARTIES AND MEMBERS OF THE PUBLIC. MEMBERS OF THE PUBLIC ARE INVITED TO VIEW MEETINGS LIVE USING WEBEX WHICH ALLOWS THEM TO "RAISE A HAND" AND CONTRIBUTE WITH VOICE AND VIDEO DURING THE PUBLIC PORTIONS OF THE MEETING. MEMBERS OF THE PUBLIC WHO ARE CALLING IN BY PHONE WILL ALSO HAVE THE OPPORTUNITY TO CONTRIBUTE WHEN CALLED UPON TO SPEAK.

ROLL CALL

Board Members in Attendance:

Allen, J.
Cook, J.
Filler, C.
John, C.
Monaco, R.
Mueller, A.
Hindle, J.
Rohrbach, T.
Villa, C.

Board Members Absent:

Albanese, J. (recused)
Hendrickson, N. (recused)

Others Present:

Board Attorney Jonathan Drill, Esq., Board Planner Michael Sullivan, Board Engineer Rob O'Brien, Board Environmental Consultant Laura Craig, Board Traffic Engineer Jay Troutman, and Board Secretary Ann Marie Lehberger.

MINUTES

Ms. Filler moved, and Mr. Cook seconded, a motion to approve the February 28, 2022, minutes. The motion carried unanimously.

RESOLUTIONS

There were no resolutions presented for Board consideration.

PUBLIC HEARING

Chubb INA Holdings, Inc. / Rosedale and Rosehill Cemetery Association

Appl# PB21-003 – Application for Preliminary Site Plan Approval and Conditional Use Approval for a Cemetery on Block 12, Lots 16 and 16.01

Attorney Glen Pantel was present on behalf of Chubb INA Holdings Inc. and Attorney Robert Stanicki was present on behalf of Rosedale and Rosehill Cemetery Association.

Attorney Robert Simon was present to represent individual objectors regarding this application.

Board Attorney Drill provided a summary as to where the Board left off at the last hearing stating that all attorneys would have the opportunity to make their arguments on the last procedural issue which is as follows:

- Whether the revised plans that were submitted in June of 2021 are a substantial change to that reflected on the plans submitted with the original application in 2017.

Board Attorney Drill confirmed that all Board Members present were eligible to vote on the application.

Attorney Robert Simon began his argument on the last procedural issue in front of the Board as to whether the revised plans that were submitted in June of 2021 are a substantial change to that reflected on the plans submitted with the original application in 2017.

Mr. Simon raised the issue of completeness of the application contending that based on the testimony of the Applicant's witness regarding the issue of substantial change, the Applicant failed to depict the stream corridor easements on the plans as required by the site plan ordinance.

Mr. Pantel objected stating that the issue of completeness is not what the Board is considering this evening.

Board Attorney Drill confirmed his opinion that the Board cannot undo a completeness determination.

Mr. Simon stated that pursuant to Township Ordinance the review by the Planning Board on a conditional use application should include all the elements required in a site plan review.

Mr. Simon concluded his argument stating that certain changes to the application are substantial and therefore it should be treated as a new application by the Board which would require the application to be subject to different ordinances including ordinances that render the proposed use as prohibited and rendering the jurisdiction for the application with the Board of Adjustment because the Planning Board does not have jurisdiction to consider any (d) use applications.

Attorney Glen Pantel presented his argument on the last procedural issue in front of the Board as to whether the revised plans that were submitted in June of 2021 are a substantial change to that reflected on the plans submitted with the original application in 2017.

Mr. Pantel referenced N.J.S.A 41:55D -10.5 of the MLUL (Municipal Land Use Law) adopted in 2010 contains a “time of application rule” that determines what ordinance governs a land use development application. Under this provision, regulations that are in effect “on the date of submission of an application for development” will apply.

Mr. Pantel contended that the Applicant brought the plan in compliance with the Township ordinances and the DEP (Department of Environmental Protection) creating environmental enhancement and improvement.

Mr. Pantel continued his argument citing specific case law examples and opinions regarding the factors to be considered in determining whether or not changes to a plan are substantial enough to render it a “new application.”

Board Attorney Drill noted that nonpublished cases and opinions are not binding on the Board.

Mr. Pantel reviewed the changes made to the application. Displaying previously submitted exhibits A-3(2017 plan) and A-4(2021 plan), he opined that the plans are very similar and clearly show that there was not a substantial change to the application.

Mr. Pantel concluded his argument stating that the changes made to the application are not substantial but rather minor and customary. He further stated that the central focus of the application had remained the same and the applicant has brought the application into conformance with zoning and DEP regulations.

In response to a question from Chair Monaco, Mr. Pantel confirmed that the case examples he cited occurred during a hearing for an application.

Attorney Robert Stanicki provided a closing statement concurring with the comments made by Mr. Pantel and stated that the Applicant has and will continue to work with the Township and its professional's and requested that the Board vote to allow the application to proceed.

EXECUTIVE SESSION

EXECUTIVE SESSION RESOLUTION

WHEREAS N.J. S.A. 10:4-12 (the Open Public Meeting Act) authorizes this Board to exclude the public from that portion of a meeting at which this Board discusses certain matters;

WHEREAS, the Board is about to discuss such a matter, specifically a matter falling within the attorney-client privilege where confidentiality is required for the Board Attorney to exercise his ethical duties as a lawyer with respect to attorney-client privileged legal advice he wishes to give the Board regarding the legal issues involved with the Board making a determination of whether the revised plans that were submitted by both Rosedale and Rosehill Cemetery Association and Chubb INA Holdings in June 2021

represent substantial change to that reflected on the plans submitted with the 2017 application.

WHEREAS this Board believes the public should be excluded from these discussions.

NOW, THEREFORE, be it resolved by the Readington Township Planning Board on March 14, 2021, that this Board now go into closed session and the public be excluded and that the Board believes that the discussions conducted in the closed session may not be disclosed to the public because they will involve attorney-client privileged advice and information.

Ms. Filler moved, and Ms. Hindle seconded to adopt this resolution. The motion carried unanimously.

The Board returned to open session with all members present.

Mr. Mueller moved, and Ms. Filler seconded a motion to come out of closed session. The motion carried unanimously.

Board Attorney Drill referencing his August 9, 2021, letter to the Board summarized the legal advice that he provided the Board.

Board Attorney Drill explained that the decision the Board must make is whether the changes between the 2017 plans and the 2021 revised plans represent a substantial amendment to the layout of improvements as reflected on the 2017 plans and/or otherwise represent substantial changes to the 2017 plans and, ultimately, whether the revised 2021 application should be treated as a new application.

The Board began deliberations and noted the following:

- The number of stormwater basins from the 2017 plans which was six increased in the 2021 application to thirteen and the area occupied by stormwater basins also increased from 2017 to 2021.
- The burial sites along Meadow Road and Lamington Road increased and are more visible in the 2021 plans.
- The hedgerow in the 2017 plans is being replaced by an underground basin in the 2021 plan substantially reducing its size
- The stream corridor conservation easements changed from approximately three acres in 2017 plan to approximately twenty-nine acres in the 2021 plans also resulting in also a substantial change in the bridge design.

Ms. Filler moved, and Ms. Hindle seconded, a motion that the Board finds that the changes between the 2017 plans and the 2021 revised plans represent a substantial amendment to the layout of improvements as reflected on the 2017 plans and represent substantial

changes to the 2017 plans and therefore the 2021 application should be treated as a new application. The roll call vote follows:

Member	Motion	2nd	Yes	No	Abstain	Absent	Not Eligible	Recused
Albanese								X
Allen			X					
Cook			X					
Filler	X		X					
Hindle		X	X					
John			X					
Mueller			X					
Monaco			X					
Rohrbach			X					
Villa			X					
Hendrickson								X

Ms. Filler moved, and Mr. Cook seconded, a motion that the Board finds that as a new application, Ordinance #13-2019 applies under the Time of Application Law so that cemeteries are prohibited on the property and the Applicant requires a d(1) use variance, so the application is dismissed because the Board does not have subject matter jurisdiction over it by reason of the d variance. Because the Board does not have subject matter jurisdiction over the application it will not rule on any other pending issues that have not already been addressed. The roll call vote follows:

Member	Motion	2nd	Yes	No	Abstain	Absent	Not Eligible	Recused
Albanese								X
Allen			X					
Cook		X	X					
Filler	X		X					
Hindle			X					
John			X					
Mueller			X					
Monaco			X					
Rohrbach			X					
Villa			X					
Hendrickson								X

Mr. Mueller moved, and Mr. Cook seconded a motion to adjourn. The motion carried unanimously, and the meeting was adjourned at approximately 9:40 p.m.

Respectfully submitted,
 Ann Marie Lehberger
 Planning Board Secretary